

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Tammy Walker,)
Plaintiff) Civil Action No. 05-30074- MAP
)
v.)
)
City of Holyoke,)
Defendant)
)

**ASSENTED TO PLAINTIFF’S MOTION TO ALLOW LATE FILING OF
PLAINTIFF’S RESPONSE TO DEFENDANT’S MOTION FOR SUMMARY
JUDGMENT**

NOW COMES the Plaintiff Tammy Walker, who respectfully requests that this Court allow the late filing of Plaintiff's Response to Defendant's Motion for summary Judgment, Affidavit, and Exhibits (1 through 19). Plaintiff requests the Court to extend the time for filing the aforementioned Response to Defendants Motion for Summary Judgment, from July 31, 2007 to August 1, 2007; and to allow Defendant an additional day to file its Reply Brief.

In Support of this Motion, the Plaintiff states the following:

1. The Defendant assents to this motion.
2. Plaintiff attempted to file her above mentioned Response through the ECF system before 6:00 p.m. on July 31, 2007. However, due to problems with acquiring internet access on Plaintiff's attorney's end; Plaintiff was not able to successfully file her Response electronically.
3. On July 31, 2007, before 7:00 p.m. Plaintiff's Responses were accepted by the United States ("US") Post Office in Boston for express mailing to Ms. Bethany Healy, Court Room Clerk, U.S. District Court, Springfield.
4. Subsequently on July 31 at 11:23 p.m., Plaintiff e-mailed her Responses, Affidavit, and Exhibits 1 through 19, to the U.S. District Court, District of

- Massachusetts (usdc-bostoninfo@mad.uscourts.gov), for filing through the ECF system.
5. On August 1, Plaintiff's attorney confirmed with deputy clerk Maurice Lindsay that the above referenced Responses were filed. However, Mr. Lindsay acknowledged that Plaintiff's Exhibit 19 had been received, but inadvertently omitted from the ECF system, and that Exhibit 19 would also be filed.
 6. Pursuant to Local Rule 5.4(d) Plaintiff's late filing is not excused when the computer error occurs on Plaintiff's end.
 7. The Administration of justice would be served by allowing this motion to authorize the late filing, by one (1) day, of Plaintiff's Response To Defendant's Motion For Summary Judgment. Pursuant Fed. R. Civ. P. 56, even uncontested motions for summary judgment must be examined carefully by the court to ascertain whether no genuine issue of material fact remains and whether judgment is appropriate as a matter of law. See Rule 56(e) ("If the adverse party does not so respond, summary judgment if appropriate, shall be entered against the adverse party" (emphasis added). Accord De LaVega v. San Juan Star, Inc. 377 F.3d 111, 115-116 (1st Cir. 2004). Plaintiff's Responses would greatly assist the court in determining the appropriateness of summary judgment in the present case.
 8. The defendant would not be prejudiced if the court allowed this motion. Plaintiff and Defendant respectfully request the court to allow one (1) additional day to the currently scheduled deadline for filing Defendant's Reply Brief.

WHEREFORE, the Plaintiff respectfully requests that this Court grant her Motion to allow late filing of her Response to Defendant's Motion for Summary Judgment, and allow Defendant an additional day to file its Reply Brief.

Respectfully Submitted
Tammy Walker
By her attorney

/s/ Ozell Hudson, Jr.

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CERTIFICATE OF CONSULTATION

By telephone conversation on August 1, 2007 counsel for the Plaintiff requested Defendant's counsel, Carole Sakowski Lynch, to assent to her motion to allow late filing of Responses to Defendant's Motion for Summary Judgment. Defendant's counsel assented to the above-mentioned matter, and Plaintiff agreed to include a request that one day be added to Defendant's deadline to file its Reply brief.

/s/ Ozell Hudson, Jr.

CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants on August 2, 2007.

/s/ Ozell Hudson, Jr.